



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1140375 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR OPR OPC FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on June 21, 2018 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities;
- an order of possession for unpaid rent or utilities;
- an order of possession for cause; and
- an order granting recovery of the filing fee.

The corporate Landlord was represented at the hearing by S.M., an agent, who provided affirmed testimony. S.M. was accompanied by H.Z., who did not participate in the hearing. The Tenant did not attend the hearing.

On behalf of the Landlord, S.M. testified the Application package was served on the Tenant by registered mail on June 25, 2018. The Landlord submitted copies of registered mail receipts in support. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Application package is deemed to have been received on June 30, 2018. In addition, S.M. testified that further documentary evidence was served on the Tenant in person on August 3, 2018. I find the documentary evidence was received by the Tenant on that date. The Tenant did not submit documentary evidence in response to the Application.

On behalf of the Landlord, S.M. was given the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
2. Is the Landlord entitled to an order of possession?
3. Is the Landlord entitled to recover the filing fee?

Background and Evidence

On behalf of the Landlord, S.M. testified the Landlord took over the rental property in January 2018. The previous landlord did not provide the Landlord with a written tenancy agreement. Therefore, the date the tenancy began was unknown. However, S.M. confirmed that rent in the amount of \$800.00 per month is due on the first day of each month, a portion of which is paid directly through social assistance benefits. S.M. testified that the Landlord did not receive a security deposit from the previous landlord.

S.M. testified the Tenant has not paid rent when due. Specifically, the Landlord has received only \$400.00 per month since January 1, 2018. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated June 2, 2018 (the "10 Day Notice"), which was served on the Tenant by registered mail on that date. A Canada Post registered mail receipt was submitted in support. Currently, rent in the amount of \$3,200.00 is outstanding (\$400.00 x 8 months).

S.M. testified that no partial payments have been received and that he has no knowledge about an application for dispute resolution being filed by the Tenant.

The Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the unchallenged and affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26(1) of the *Act* confirms:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

[Reproduced as written.]

The Landlord sought an order of possession. In this case, S.M. testified, and I find, that the 10 Day Notice was served on the Tenant by registered mail on June 2, 2018. Pursuant to sections 88 and 90 of the *Act*, documents served by registered mail are deemed to be received 5 days later. I find the Tenant is deemed to have received the 10 Day Notice on June 7, 2018. Accordingly, pursuant to section 46(4) of the *Act*, the Tenant had 5 days after receipt – until June 12, 2018 – to pay rent in full or dispute the 10 Day Notice by filing an application for dispute resolution. S.M. testified the Tenant has not made any further rent payments and continues to reside in the rental unit. Further, S.M. confirmed he has no knowledge of an application for dispute resolution being filed by the Tenant. As a result, and pursuant to section 46(5) of the *Act*, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the 10 Day Notice. The Landlord is granted an order of possession, which will be effective two (2) days after it is served on the Tenant.

The Landlord also sought a monetary order for unpaid rent. I grant the Landlord a monetary award of \$3,200.00 for unpaid rent. Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$3,300.00, which is comprised of \$3,200.00 in unpaid rent and \$100.00 I recovery of the filing fee.

In light of my finding that the tenancy is ending based on the undisputed 10 Day Notice, it has not been necessary for me to consider the merits of the request for an order of possession based on a One Month Notice to End Tenancy for Cause, dated June 2, 2018.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$3,300.00. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 17, 2018

Residential Tenancy Branch